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FISCAL IMPACT STATEMENT

LS 7236

BILL NUMBER: SB 365

NOTE PREPARED: Feb 24, 2009

BILL AMENDED: Feb 23, 2009

SUBJECT: Various Department of Child Services Matters.

FIRST AUTHOR: Sen. Lawson C

FIRST SPONSOR: Rep. Avery

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill repeals provisions concerning local coordinating committees. The bill removes information that could be included in a petition for adoption. It requires a petition for adoption that is in proper form to be forwarded to the Department of Child Services (DCS). The bill also specifies certain supervision that is a prerequisite to adoption.

The bill strikes references to county Offices of Family and Children. It also corrects references from the county Office of Family and Children to the local office of DCS. The bill changes references from caseworkers to family case managers. It changes references from child abuse "investigations" to child abuse "assessments." This bill also provides that if DCS believes that a child is in imminent danger of serious bodily harm, DCS shall initiate an immediate assessment.

The bill also provides that DCS may publish or post on its website a list of supervising adoption agencies. It provides that licensed child placing agencies or local offices of DCS will ensure that certain criminal history checks are conducted (current law requires DCS to conduct the criminal history checks).

This bill removes classifications of when a child is hard to place and requires DCS to define "hard to place". The bill requires a court to refer a petitioner for adoption who requests financial assistance to DCS. The bill also changes the frequency DCS is required to report information regarding caseloads of child protection caseworkers.

This bill also provides that a child's case plan for a Child in Need of Services (CHINS) includes ensuring educational stability of the child while in foster care. It also requires DCS, in cooperation with the state Department of Education, to develop and coordinate the education advocates for children in foster care plan.

The bill provides that under certain circumstances the refusal of a parent, guardian, or custodian to submit to a drug or alcohol screen test after the death of a child may be used to determine that the parent was intoxicated or under the influence of drugs or alcohol at the time of the child's death. It also requires a coroner to notify the local office of DCS of the death of a person who is less than 18 years of age.

The bill gives DCS additional emergency rule-making authority. This bill also changes references from the Family and Social Services Administration (FSSA) to DCS. It makes other conforming changes.

The bill provides that DCS shall assess a report of a child who lives with a parent who is married to or lives with a person who has been convicted of a battery offense or neglect of a dependent. The bill also provides that DCS shall assess a report of a child who lives with a parent who is married to or lives with a person who is required to register as a sex offender. The bill also prohibits a court from appointing a person to serve as a guardian or to continue to serve as a guardian if the person committed certain sex offenses. It prohibits a court or juvenile court from permitting a person to serve as a guardian or custodian if the person was convicted as an adult of certain sex offenses that the person committed when the person was less than 18 years of age.

The bill also provides that DCS is responsible for the cost of treatment or maintenance of a child under DCS's supervision only if the costs are reimbursable under the state Medicaid program.

The bill removes a requirement that the probation department complete a child's case plan not more than 60 days after the date of the dispositional decree. It also requires the probation department to create a case plan if a decree is modified. It removes a requirement for a probation officer to include certain information in a predispositional report for DCS to determine if a child is eligible for certain government assistance. The bill authorizes a probation department, the local office of DCS, and DCS to exchange information for use in preparing certain reports concerning a child.

This bill removes the requirement that the Bureau of Child Support demonstrate that all previous enforcement actions have been unsuccessful before sending an obligor a notice that the obligor is delinquent.

This bill provides that a petition alleging that a child taken into custody is a child in need of services (CHINS) shall be filed before the detention hearing. It requires the initial hearing on the CHINS petition to be held at the same time as the detention hearing.

The bill also enhances battery to a Class D felony if the victim suffers bodily injury and is a DCS employee. It also adds employees of DCS to the list of persons covered by the statute making battery by bodily waste a Class D felony.

The bill authorizes a probation department and the county office of family and children, a local office, and DCS to exchange information for use in preparing certain reports concerning a child.

The bill provides that a court may: (1) order a party who is alleged to be in contempt of court regarding violation of a child support order to show cause as to why the party should not be held in contempt; and (2) if the party fails to respond to the order to show cause, issue a bench warrant and require the party to deposit an escrow amount before the hearing to show cause.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: *Home Studies:* The provisions in this bill will no longer require DCS to perform home studies for adoptions requested through licensed child placing agencies or other private adoption agencies, but only for wards of the state. This will decrease the workload of DCS staff. The typical home study requires eight hours of supervision.

Additionally, the bill allows DCS to publish lists of licensed child placing agencies that perform home studies on the Department's website. This may decrease expenditures to provide these lists to requesting individuals to the extent that they are obtained on the DCS website. Actual decreases are expected to be minimal.

Criminal History Checks: Under current law, DCS is required to conduct criminal history checks of an individual petitioning for adoption through a licensed child placing agency if ordered by the court. This bill would require DCS to ensure a criminal history background check is obtained for adoptive parents working with licensed child placing agencies rather than conduct the background check themselves. This may decrease DCS expenditures to the extent criminal history information requests made by the Department decrease.

Costs of Treatment: This bill changes current law to require that DCS is required to pay for costs of treatment or maintenance of a child under DCS's custody who is placed in a state institution only if the costs are reimbursable under Medicaid. This will decrease DCS expenditures to the extent that DCS financed the care of children that is outside the reimbursement eligibility under the Medicaid program. Total decreases in expenditures is indeterminable. Any expenditure decreases that DCS would experience would be shifted to either the Division of Mental Health and Addiction (DMHA) or the Division of Disability and Rehabilitative Services (DDRS). These are the agencies that oversee the operations of the state institutions where a child may be placed.

Probationary Reporting Requirement: This bill removes the requirement that a probation officer coordinate with DCS in order to make a program/service recommendation in a predispositional report during a juvenile delinquency case. This will reduce the workload of DCS staff to review and recommend services for children in a juvenile delinquency case. The Division of State Court Administration reports that in 2007 there were 11,220 juvenile delinquency cases filed, of which 1,239 were disposed. [Note: It is not known the extent to which probation officers currently request DCS staff to make program/service recommendations in juvenile delinquency cases as DCS bears no costs for secure juvenile detention. Currently, probation officers are required to coordinate with DCS in order to determine if a child is eligible for services provided by the Department.

Adult Relative Notification: The bill also requires DCS to exercise due diligence and notify all adult relatives, including relatives suggested by the parents' relative, of a child taken into state custody within 30 days of the child's removal. DCS currently attempts to notify a child's relatives. This provision may increase the workload of DCS staff. Actual increases are expected to be minimal.

Guardianship Restrictions: This bill will decrease the number of potential guardians or custodians that can be appointed to a child. A decrease in the number of potential guardians and custodians may increase state expenditures on foster care. Foster care expenses are paid by DCS. Any added costs will depend on whether a child would require placement in foster care.

It is assumed that few persons with sex crime histories petition a court with juvenile jurisdiction for either guardianship or custodianship. Under current practice, juvenile court judges will likely consider the criminal

history of a person who is petitioning the court for guardianship or to serve as a child's custodian.

(Revised) Immediate Assessments: The bill requires DCS to perform an immediate assessment when the Department feels that a child is in imminent danger. This may increase workload to the extent that caseworkers are required to perform immediate assessments in addition to current workload.

Sex Offender Registration and CHINS: This bill can increase the number of children who are considered CHINS in the state. The DCS reports the number of children that currently live with registered sex offenders is unknown.

Any increase in the number of CHINS may also increase the number of Guardian Ad Litem (GAL) and Court Appointed Special Advocates (CASA) that are assigned to CHINS determination hearings. Increases in the number of CHINS will also increase the caseload of juvenile courts with a subsequent increase in the number of CHINS cases heard.

The Division of State Court Administration currently provides state matching funds to counties that have appropriate GAL/CASA services. Funding is administered based on the number of CHINS in a county. If this bill increases the number of CHINS, state expenditures for the GAL/CASA program will increase as well. Actual increases in state expenditures will depend on any change in CHINS numbers in a county.

Child Support Bureau: This bill will expedite the process by which the Bureau of Child Support issues notices that an obligor is delinquent in paying his or her child support. Delinquency is defined as either owing \$2,000 in child support or failing to pay child support for three months. Currently, the Bureau is required to be able to demonstrate before a judge that all previous enforcement actions were unsuccessful. Removing this provision may not necessarily decrease workload to prove actions were unsuccessful, but will no longer require the Bureau to be able to demonstrate their attempts and can increase child support collection efforts. The impact on the Bureau's workload is expected to be minimal.

CHINS and Detention Hearings: The DCS reports that currently there are separate hearings held for CHINS determinations and child detention hearings. By combining the two hearings into a single hearing, court caseload will decrease.

The Division of State Court Administration does not collect information on how many children receive detention hearings and CHINS determination hearings. The decrease in court caseload is indeterminable.

(Revised) Refusal to Submit to a Drug/Alcohol Test: The bill provides that under certain circumstances the refusal of a parent, guardian, or custodian to submit to a drug or alcohol screen test after the death of a child may be used to determine that the parent was intoxicated or under the influence of drugs or alcohol at the time of the child's death. The bill allows an assumed impairment to be used during a judgment of child neglect. If a neglect substantiation is entered, any other children who reside in the house may receive a judicial order for out-of-home placement. If there is an increase in the number of out-of-home placements, the state would experience increases in expenditures. Expenditure increases would depend on judicial decisions, but are expected to be small.

CHINS from Self-Inflicted Harm: This bill may decrease the number of children that are considered CHINS due to self-inflicted abusive behavior. Any decrease in the number of CHINS may also decrease the number of Guardian Ad Litem and Court Appointed Special Advocates that are assigned to CHINS during child abuse determination cases and parental rights termination cases. Decreases in the number of CHINS will also

decrease the caseload of juvenile courts with a subsequent decrease in the number of CHINS cases heard. Actual future decreases in CHINS cases resulting from self-inflicted abusive behavior is indeterminable but expected to be small.

DCS funds programming and services for CHINS. CHINS programming and services are ordered by a judge during the CHINS determination and is normally an agreed-on recommendation made by both DCS and the CASA representing the child. DCS reports that the total CHINS cost in CY 2007 was approximately \$380 M.

If this bill decreases the number of CHINS, state expenditures for the GAL/CASA program will decrease as well. Actual decreases in state expenditures will depend on any change in CHINS numbers in a county. Actual decreases in state expenditures is indeterminable, but expected to be small.

Penalty Provision: The legislation provides that battery that results in bodily injury is a Class D felony if committed against a DCS employee while the employee acts within their official duties. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Education Advocates: The bill requires DCS, in cooperation with the Department of Education (DOE), to develop and coordinate the education advocates for children in a foster care plan. DCS is also required to submit a report to the Governor and Legislative Council detailing this plan. The provisions of this legislation will increase the workload of DCS and DOE employees.

Background Information: DCS currently pays for services provided to CHINS and services that formerly would have been provided by the county child welfare fund. Currently, DOC is required to finance services for children placed in secure detention facilities.

Indiana law requires the appointment of either a Guardian Ad Litem or a Court Appointed Special Advocate in abuse and neglect cases. If the child becomes the subject of a petition to terminate the parent/child relationship, the court is required to appoint a GAL or CASA for the child. The Division of State Court Administration currently provides state matching funds to counties that have appropriate GAL/CASA services. Funding is administered based on the number of CHINS in a county. In 2007, active CASA volunteers contributed an estimated 508,973 hours of time in 19,949 cases involving abused or neglected children in Indiana courts.

Explanation of State Revenues: (Revised) To the extent the provisions in this bill help to increase child support collection efforts in the state may increase federal revenue the state receives from the federal IV-D program. The state receives federal IV-D funding based partially on child support collection amounts in the state. The actual impact on federal revenue is not known.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Probation Officers:* This bill will increase the workload of probation officers to the extent that dispositional decrees for qualifying children are modified and require a new child case plan.

Currently, a probation officer is required to create a case plan for a child before 60 days after either (1) the date of a child's placement in an out-of-home residence/facility (that is not a secure detention facility) or (2) the date of the dispositional decree. This bill will modify that requirement to just 60 days after the date of the child's first placement that is paid for by DCS.

The bill will require probation officers who are employed by courts with juvenile jurisdiction to create the same case plans, currently required only for the initial placement, if there is a modification of the child's dispositional decree. Workload increases will depend on the number of dispositional decree modifications.

(Revised) Contempt of Court for Child Support: The bill will increase the workload of (1) the courts, (2) law enforcement, and (3) court clerks in order to process escrow payments and perform procedures for individuals who fail to pay child support. Additionally, the bill may increase local expenditures to provide the prescribed receipt for a deposit into an escrow account.

Individuals found in contempt of court may be subject to imprisonment, fines, or imprisonment and fines. Local county jails may experience increases in expenditures to detain individuals who fail to pay child support and are unable to deposit money in the required escrow. Local county jails may also experience expenditure increases to detain individuals who fail to show up for the hearings required in the bill. Increases in expenditures are unknown, but expected to be minimal.

Home Study Lists: The bill removes the local court clerk and the public library from the individuals that are required to keep lists of licensed child placing agencies that perform home studies. This may decrease the workload of the local court clerk and public library. Decreases are expected to be minimal.

Guardianship Restrictions: Under this bill, it will be the responsibility of the courts to perform checks of individuals who are to be appointed as either a guardian or a custodian of a child. This will increase the workload of courts with juvenile jurisdiction to ensure that appointed guardians and custodians do not have a qualifying offense mentioned in the legislation.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Background Information: Prior to July 1, 2006, courts had the discretion to deny guardianship or custodianship of a child if a person had prior sex crime convictions. Beginning July 1, 2006, juvenile courts were not permitted to appoint a person as a guardian or custodian of a child if the person was a convicted sex offender.

DOC reports that in 2004 there were 4,021 juveniles served in community corrections programs. Currently, there are 73 counties participating in the community corrections program for juveniles.

Often, the children referred to in this bill are placed in detention alternatives like home detention or community correctional facilities. Juveniles in community correction programs are nonviolent, youthful offenders who have been adjudicated for delinquent offenses that, if committed by an adult, would be

considered a felony.

Explanation of Local Revenues: *GAL/CASA*: The Division of State Court Administration currently provides state matching funds to counties that have appropriate GAL/CASA services. Funding is administered based on the number of CHINS in a county. If this bill changes the number of CHINS, local revenue for the GAL/CASA program may change as well. Actual changes in local revenue are indeterminable, but expected to be small.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: DCS; DMHA; DDRS; Juvenile Court System; Division of State Court Administration; GAL/CASA Program; DOC; Bureau of Child Support.

Local Agencies Affected: County GAL/CASA programs, local courts, local law enforcement agencies.

Information Sources: Ann Houseworth, DCS; Jim Diller, Division of State Court Administration. Ann Houseworth, DCS; Office of the Guardian Ad Litem/Court Appointed Special Advocate; Leslie Dunn, Division of State Court Administration; Loretta Oleksy, Division of State Court Administration.

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